IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.03.2021
CORAM:
THE HON'BLE MR.JUSTICE C.SARAVANAN
W.P. Nos. 7503 to 7506 of 2018

S.Mukanchand bothra & Sons (HUF)
Represented by karta Mukanchand Bothra
43, Veerappan Street,
Sowcarpet, Chennai - 600 079. ... Petitioner in all W.Ps

Vs

Income Tax Officer,
Non-Corporate Ward-5(3),
2nd Floor, Tower-1,
BSNL building,
Egmore, Chennai - 6. ... Respondent in all W.Ps

Prayer in W.P.No.7503 of 2018: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the entire records from the respondent pertaining to the order dated 31.01.2018 passed in AAHHM4095C/NCW-5(3)/2002-03 and to quash the same.

Prayer in W.P.No.7504 of 2018: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the entire records from the respondent pertaining to the order dated 31.01.2018 passed in AAHHM4095C/NCW-5(3)/2001-02 and to quash the same.

Prayer in W.P.No.7505 of 2018: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the entire records from the respondent pertaining to the order dated 31.01.2018 passed in AAHHM4095C/NCW-5(3)/2006-07 and to quash the same.

Prayer in W.P.No.7506 of 2018: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the entire records from the respondent pertaining to the order dated 31.01.2018 passed in AAHHM4095C/NCW-5(3)/2005-06 and to quash the same.

For Petitioner : Mr.Gagan bothra
In all W.Ps Party-in-person

For Respondent : Mr.Prabhu Mukunth Arunkumar
In all W.Ps

COMMON ORDER

On the date of hearing/When the case was taken up for hearing, it is informed that Kartha of HUF, S.Mukanchand Bothra has passed away and therefore his elder son Gagan Bothra, has stepped in as the Kartha of the said HUF/S.Mukanchand Bothra. He appears as party in person to represent the interest of the petitioner/HUF.

2. These writ petitions have been filed against the impugned orders passed under Section 271(1)(c) of the Income Tax Act, 1961, seeking to impose penalty against the petitioner/HUF, which was represented by the deceased/Kartha S.Mukanchand Bothra, now represented by Gagan Bothra. It is submitted that the proceedings pursuant to which the impugned assessment orders passed under Section 271(1)(c) of the Income Tax Act, 1961, came to be passed have been set aside finally by the Income Tax Appellate Tribunal, by an order dated 23.10.2018 in ITA.Nos.52 to 55/MDS/2017 for the Assessment Years 2001-2002, 2002-2003, 2005-2006 & 2006-2007.

3. The learned counsel for the respondent confirms that the Income Tax Department has not filed any appeal against the aforesaid order of the Income Tax Appellate Tribunal on the ground that of monetary policy of the Income Tax Department.

4. Since the impugned orders were passed consequent to orders which were impugned before the Income Tax Appellate Tribunal which have been set aside by the Income Tax Appellate Tribunal vide its order dated 23.10.2018, these writ petitions filed by the petitioner/HUF are liable to be allowed. Accordingly, these Writ Petitions are allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

arb
To
Income Tax Officer,
Non-Corporate Ward-5(3),
2nd Floor, Tower-1,
BSNL building,
Egmore, Chennai – 6.

+1 cc to Mr.Hema Muralikrishnan, Advocate, SR.NO.19854

W.P. Nos. 7503 to 7506 of 2018

PMK(CO)
NS(04/05/2021)